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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/733,622	12/11/2003	Gerald W. Pfleging	LUC-441/Pfleging 5-3-10	8525
47382	7590	05/04/2005	EXAMINER	
PATTI & BRILL, LLC ONE NORTH LASALLE STREET 44TH FLOOR CHICAGO, IL 60602			TWEEL JR, JOHN ALEXANDER	
			ART UNIT	PAPER NUMBER
			2636	

DATE MAILED: 05/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/733,622	<b>Applicant(s)</b> PFLEGING ET AL.	
	<b>Examiner</b> John A. Tweel, Jr.	<b>Art Unit</b> 2636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 December 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11, 13-17, 19 and 20 is/are rejected.
- 7) ☒ Claim(s) 12 and 18 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>12/11/03</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Specification***

1. The disclosure is objected to because of the following informalities:
  - Page 6, Line 23: The phrase "to the" has been repeated in this line.
  - Page 8, Line 11: There is an extra word "of" in this line.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter that the applicant regards as his invention.

3. Claim 15 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 15 recites the limitation "the second message" and "the first message" in lines 3 and 8. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-3, 5, 8-10, 13-16, 19, and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by **Cunningham et al** [U.S. 6,807,463].

For claim 1, the claimed one or more X10 gateway components is met by the controllers of **Cunningham**, in this case the kitchen console (No. 50) and alarm clock (No. 60) that communicate messages between one or more mobile communications devices and one or more module components.

For claim 2, the X10 controllers (No. 50 and 60) of **Cunningham** are connected to an external communications network such as the internet, world wide web, via telephone, DSL, or cable TV lines as well as cellular telephone, satellite or the like. The components obtain messages from an outside communications device (No. 30) such as a cellular telephone or PDA.

For claim 3, the module components of **Cunningham** are several electrical devices, such as a coffee maker (No. 54), electric blanket (No. 56), and HVAC system (No. 85). Messages received at the controllers execute commands at the electrical devices.

For claim 5, one method of receiving messages in **Cunningham** is e-mail. The controllers are also designed to generate and transmit e-mails based on electrical device status.

For claim 8, the X10 controllers of **Cunningham** may be accessed through the Internet.

For claim 9, the controllers of **Cunningham** receive messages containing commands and data to control the corresponding electrical device.

For claim 10, the thermostat (No. 78) of **Cunningham** provides temperature and activation information to the X10 controllers.

For claim 13, the system of **Cunningham** may require a password for verification and remote operation of the controller.

For claim 14, the method taught by **Cunningham** communicates messages between one or more mobile communications devices using an X10 controller (Nos. 50 and 60).

For claim 15, the system of **Cunningham** receives messages containing commands from a wireless link such as a cellular telephone, satellite or the like. The controllers (Nos. 50 and 60) receive the commands from the messages and send these commands to the components to control one or more electrical devices with the commands.

For claim 16, the commands of **Cunningham** may be received over the Internet.

For claim 19, the method taught by **Cunningham** involves using a password to remotely access and command the system and enabling the receipt of the message containing said commands.

For claim 20, the article taught by **Cunningham** includes signal-bearing media met by the microcontroller (No. 205) that enables communication between mobile communication devices and X10 module components.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 4, 11, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Cunningham et al** in view of **Vasell et al** [U.S. 6,496,575].

For claim 4, the apparatus of **Cunningham** includes the claimed subject matter as discussed in the rejection of claims 1-3 above. However, there is no mention of a short message service (SMS) message.

The application and communication platform for connectivity-based services taught by **Vasell** allows clients to access and control sensors and appliances through a local network (No. 10) and the internet (No. 26). Service gateways can operate in conjunction with any LAN such as Ethernet, IR, and X10. In the specification, the remote terminals (No. 28 and 30) may use a short message system (SMS) protocol to adapt the terminal. This reference is plain evidence that SMS platforms have been used in service platforms to adapt remote terminals in the past.

One important advantage introduced by the Vasell reference is compatibility with well-known and common message systems. This would increase the usefulness of the Cunningham system. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the SMS protocol into the primary reference for the purpose of taking advantage of a well-known and common message protocol.

For claim 11, the apparatus of **Cunningham** includes the claimed subject matter as discussed in the rejection of claims 1 and 10 above. However, there is no mention of a short message service (SMS) message.

The claim is interpreted and rejected for the same reasons and rationale as is mentioned in the rejection of claim 4 above.

For claim 17, the method of **Cunningham** includes sensor components sending messages to the controllers; however, there is no mention of a short message service.

The claim is interpreted and rejected for the same reasons and rationale as is mentioned in the rejection of claim 4 above.

8. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Cunningham et al** in view of **Gaucher** [U.S. 6,405,261].

For claim 6, the apparatus of **Cunningham** includes the claimed subject matter as discussed in the rejection of claims 1-3 above. However, there is no mention of conversion of a voice message into a text message to execute commands of an electrical device.

The apparatus for an automatic multi-rate wireless computer network taught by **Gaucher** includes a combination of wireless communication and an AC power network to control appliances using a PDA device. Turning on selected lights, starting an oven, controlling a VCR are all tasks that can be accomplished wirelessly. One convenient way of inputting instructions is to input a voice message into the PDA that can be converted into text in the master computer (No. 12). This is plain evidence that voice-to-text conversion can be used in a networking system. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include voice-to-text conversion in the primary reference in order to increase the convenience of the system.

9. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Cunningham et al** in view of **Nelson et al** [U.S. 6,529,589].

For claim 7, the apparatus taught by **Cunningham** includes the claimed subject matter as discussed in the rejection of claims 1 and 2 above. However, there is no mention of a serial port connection through which to obtain the messages.

Serial port connections have been used in computer communications for some time. The system for monitoring and controlling automation equipment uses serial ports in its control of X10 automation equipment. This reference is plain evidence that serial ports have been used at the time of the primary reference. It would have been obvious to one of ordinary skill in the art to include a serial port into the primary reference for the purpose of using a well-known and common connection device.



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10. Claims 12 and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

11. The following is a statement of reasons for the indication of allowable subject matter:

The prior art does not teach or suggest a sensor component taking a picture and sending the picture to a mobile communication device. Absent this teaching, the above claims are objected to.

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

**Crowe** [U.S. 4,639,714] separates commands from power signals.

**Valiulis** [U.S. 6,005,476] uses serial ports in its control and security system

**Odinak et al** [U.S. 6,348,875] communicates over electrical wiring with message authentication codes.

**Jacobson, Jr.** [U.S. 6,424,660] receives requests from a remote control device.

**Abrams et al** [U.S. 6,587,739] is a system of intelligent appliances coupled by common power lines.

**Eckel et al** [U.S. 6,798,341] performs temperature sensing, motion detection, and switching functions.


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13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John A. Tweel, Jr. whose telephone number is 571 272 2969. The examiner can normally be reached on M-F 10-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeff Hofsass can be reached on 571 272 2981. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JAT  
4/27/05



JOHNTWEEL  
PRIMARY EXAMINER